REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 24, 2009. At the time of the Office Action, Claims 12-31 were pending in this Application. Claims 12-15, 17-18 and 20-31 were rejected and Claims 16 and 19 were objected to. Claims 12, 14-16, 21, and 29 have been amended. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 12-15, 17-18 and 20-31 were rejected by the Examiner under 35 U.S.C. §102(a) as being anticipated by German Patent No. 102 02 399 issued to Dietmar Ellmer et al. (*"Ellmer"*).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Applicants respectfully submit that *Ellmer* does not teach each and every limitation of the rejected claims. For example, Claim 12 recites a method including:

> detecting a post-cat sensor signal by the lambda probe;
>
> acquiring a subsequent post-cat sensor signal chronologically succeeding the post-cat sensor signal by the lambda probe;
>
> generating a comparative value by comparing the acquired subsequent post-cat sensor signal to the detected post-cat sensor signal;
>
> changing the mixture if the comparative value is greater than or equal to a predetermined value; and
>
> generating a number of chronologically succeeding comparative values by repeating the detecting and the acquiring steps, and checking a trend of the succeeding comparative values.

Ellmer does not teach <u>comparing two post-cat sensor signals to generate a comparative value</u>. *Ellmer* also fails to teach changing a fuel mixture <u>if a comparative value between two post-cat sensor signals is greater than or equal to a predetermined value</u>. Also,

because *Ellmer* does not teach a comparative value between two post-cat sensor signals, *Ellmer* cannot teach generating a number of chronologically succeeding comparative values, or checking a trend of succeeding comparative values. *Ellmer* simply does not teach any of these limitations of Claim 12.

The passages of *Ellmer* cited by the Examiner <u>do not teach any comparison of two post-cat sensor signals</u>, much less to generate a comparative valve, and much less to then compare such a comparative valve to a predetermined valve to determine whether to change a fuel mixture. Applicants respectfully request that the Examiner indicate that exact language in *Ellmer* that allegedly teaches comparing <u>two post-cat sensor signals</u> to generate a comparative valve, as well as the exact language in *Ellmer* that allegedly teaches comparing a calculated comparative valve to a predetermined valve in order to determine whether to change a fuel mixture. Again, Applicants respectfully submit that *Ellmer* does not teach these limitations.

Rather, *Ellmer* teaches a technique for forced excitation of a closed-loop lambda control for an IC engine with a catalytic converter and lambda probes upstream and downstream of the catalytic converter. The technique includes superimposing a lambda setpoint value with first amplitude value(s) and second amplitude value(s) representing first and second groups of exhaust gas packets, respectively. A control device then determines on of the second amplitude values and a component of the second exhaust gas packets in such a way that the signal values of the downstream lambda probe change as a result of such exhaust gas packets. Thus, the technique taught by *Ellmer* does not include comparing two post-cat sensor signals, much less in order to generate a comparative valve, and much less to then compare such a comparative valve to a predetermined valve to determine whether to change a fuel mixture.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claim 12, as well as all claims that depend therefrom. In addition, for analogous reasons, Applicants respectfully request reconsideration and allowance of amended independent Claim 29, as well as all claims that depend therefrom.

Allowable Subject Matter

Applicants appreciate Examiner's consideration and indication that Claims 16 and 19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants will wait for further consideration of independent Claim 12 before taking action regarding allowable dependent Claims 16 and 19.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512-457-2030.

Respectfully submitted,
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